

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**JAMES O. STRUTHERS, Individually,
and as Administrator of the Estate of
ALICIA STRUTHERS, deceased,**

Plaintiff.

V.

CASE NO. 2:06-CV-00127-MHT-SRW

MERCK & CO., INC., a foreign Corporation; ANNE BRANDON, an Individual; LAMONDE RUSSELL, an Individual; and fictitious Defendants A, B, C & D, being those persons, firms or Corporations whose fraud, scheme to defraud, and/or other wrongful conduct caused or contributed to the Plaintiff's injuries and damages, and whose true names and identities are presently unknown to Plaintiff, but will be substituted by amendment when ascertained.

Defendants.

**RESPONSE TO DEFENDANT ANNE BRANDON'S AND
LAMONDE RUSSELL'S MOTIONS TO DISMISS**

Plaintiff, James O. Struthers, in response to Defendant Anne Brandon's and Lamonde Russell's Motions to Dismiss, adopts and incorporates herein his arguments in Plaintiff's Brief in Support of Motion to Remand, filed contemporaneously herewith.

Respectfully submitted this the 23rd day of February, 2006.

/s/ J. Paul Sizemore

ANDY D. BIRCHFIELD, JR. (BIR006)

J. PAUL SIZEMORE (SIZ004)

BENJAMIN L. LOCKLAR (LOC009)

W. ROGER SMITH, III (SMI257)

Attorneys for Plaintiff

OF COUNSEL:

**BEASLEY, ALLEN, CROW, METHVIN,
PORTIS & MILES, P.C.**

Post Office Box 4160

Montgomery, Alabama 36103-4160

Phone: (334) 269-2343

Fax: (334) 223-1236

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the parties as listed below by placing a copy of same in the United States Mail, first class, postage prepaid on this the 23rd day of February, 2006.

Alan T. Hargrove, Jr.

Mike Brock

F. Chadwick Morriss

**RUSHTON, STAKELY, JOHNSTON
& GARRETT, P.A.**

Post Office Box 270

Montgomery, Alabama 36101-0270

/s/ J. Paul Sizemore

OF COUNSEL